

# WATER QUALITY CERTIFICATION

## WHO NEEDS IT?

Anyone proposing to conduct activities which may result in a discharge to surface waters and which require a federal permit (e.g., projects involving dredging or fill in waters of the United States, subject to U.S. Army Corps of Engineers permitting requirements under Clean Water Act Section 404). Surface waters include:

- Wetlands
- Riparian Zones
- Streambeds
- Lakes
- All Other Surface Waters

## WHAT IS IT?

An order issued by the Regional Water Quality Control Board determining that the proposed project will not violate water quality standards and will protect the water for beneficial uses. At a minimum, any loss of wetlands must be replaced by a wetland of at least equal function, value and area.

## HOW DO YOU OBTAIN IT?

Submit a completed Water Quality Certification Application available (with instructions) at [www.swrcb.ca.gov/rwgcb6/files/401cert.pdf](http://www.swrcb.ca.gov/rwgcb6/files/401cert.pdf). The application should include: applicant information; detailed project description/schedule; copies of applicable federal, state, or local permits or permit applications (e.g., Streambed/Lakebed Alteration Agreements with California Department of Fish & Game); and copies of any California Environmental Quality Act (CEQA) environmental documents; estimated quantity of each water body type disturbed (including volume of any dredged material and/or acreage of any fill); and a detailed description of measures to avoid, minimize, and mitigate impacts.

(Incomplete applications will be sent back to the applicant and may result in significant time delays in the receipt of project approval and certification.)

Include a \$500.00 check (made out to the "State Water Resources Control Board") with your application as a "fee deposit." **NOTE:** Additional fees may be required if a technically-conditioned Certification (i.e., a Certification including conditions in addition to standard conditions listed in CWC Title 23 Section 3860) is issued, or if the project involves greater than one acre of fill material, or greater than 10,000 cubic yards of dredged material. The fee schedule for Certification is contained in CWC Title 23 Section 2200(1)(C). You will be advised if fees are necessary in

addition to the \$500 fee deposit. Contact the Regional Board if you need more information regarding fees.

The completed application with appropriate enclosures and fees should be mailed to the appropriate Regional Board office at:

California Regional Water Quality Control Board, Lahontan Region  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

or

California Regional Water Quality Control Board, Lahontan Region  
15428 Civic Dr., Suite 100  
Victorville, CA 92392

## **Questions?**

Call the Regional Board at (530) 542-5400.

**Timeline for Processing of Clean Water Act Section 401 Water Quality Certification**  
**([excerpted](#) from State Water Resources Control Board guidance updated March 2002)**

**Within 30 Days of Receiving an Application for 401 Water Quality Certification –**

Regional Board staff shall review the application for completeness. A complete application consists of the information described in Section 3856 of the [California Code of Regulations] (attached).

If the application is incomplete, Regional Board staff must provide written notification to the project proponent, informing them that the application is incomplete. This notification must be sent within 30 days of receiving the application. The notification should describe what additional information is required to complete the application. Please be aware that if the 30-day period passes without the Regional Board notifying the project proponent of an incomplete application, the application will be deemed complete, and the application will already be 30 days into the 401 Certification process.

**Within 60 Days of Receiving a Complete Application for 401 Water Quality Certification –**

Once a complete application has been received, the State Board and regional boards have a federal agency-dependent time period to issue or deny 401 Water Quality Certification, or to request that the federal agency provide additional time for review. For the Corps [U.S. Army Corps of Engineers], the regional boards and State Board have 60 days to issue or deny 401 Water Quality Certification, or to request from the Corps a time extension of up to one year.

If the State Board or regional boards fail to take any action within the specific time period, the federal agency can assume that 401 Water Quality Certification has been waived by the state, and the federal agency can proceed through the rest of its permitting process. The current regulations do not allow the State Board or regional boards to “waive” through inaction; and therefore, some action (deny, issue, request additional time) must be taken within the specified time period. Once again for the Corps, the time period is 60 days upon receipt of a complete 401 Water Quality Certification application.

Instructions for Completing Application  
for Clean Water Act Section 401 Water Quality Certification

**California Regional Water Quality Control Board, Lahontan Region**

Contents of a complete application are specified in California Code of Regulations Title 23, Section 3856. These instructions are provided to assist you in providing all the information needed to consider your application complete. Where necessary, the applicant may attach additional sheets to provide detailed information. Please contact the Regional Board's South Lake Tahoe office at (530) 542-5571, or the Victorville Office at (760) 241-6583 if you need assistance with completing your application.

**Section 1: Applicant**

Provide complete applicant information as indicated on the application form.

**Section 2: Project Description**

- a) *Project Title and Purpose*—Include the project title and provide a full, technically accurate description, including the purpose and final goal, of the entire activity. Indicate the total project size (in acres), and length (in feet) where appropriate, including areas outside of jurisdictional waters of the United States. (The estimated quantity of affected waters should be indicated in Section 4, "Affected Waters.")
- b) *Project Location*—Indicate the project location in latitude and longitude, or in Section/Township/Range. Attach a map indicating roads, and a published map (e.g., USGS quad map) of suitable detail, quality, and scale to allow identification of the project area and any water body(ies) potentially receiving a discharge.
- c) *Proposed Schedule*—Indicate approximate expected start and completion dates, duration, etc.

**Section 3: Project Permitting/Licensing and CEQA Compliance**

- a) *Federal Permits/Licenses Being Sought*—Identify any federal agency(ies) (e.g., the U.S. Army Corps of Engineers) from which permits/licenses are required or being sought for the proposed activities. Indicate permit/license type (e.g., for a U.S. Army Corps of Engineers permit, indicate whether an individual or Nationwide permit is being sought). Indicate license/permit number (e.g., Nationwide Permit number), if applicable. Attach copies of documentation such as federal permit applications; any final signed permits/licenses; notifications by federal agencies concerning the proposed activities; other pertinent communication with federal agencies regarding the proposed activities.
- b) *Streambed/Lakebed Alteration Agreement with Dept. of Fish & Game*—Attach a copy of your application for a Streambed or Lakebed Alteration Agreement. Attach a copy of any final signed Agreement if available.
- c) *Other State or Local Licenses/Permits/Agreements*—Attach copies of any other final and signed State or local licenses/permits/agreements. If final documents are not available,

attach copies of any draft documents, or provide a list of any remaining licenses/permits/agreements being sought.

- d) *Type of CEQA (California Environmental Quality Act) Compliance*—If available, provide a copy of any draft or final CEQA document(s) indicating State Clearinghouse number and date of adoption of EIR, Negative Declaration, or Notice of Exemption. Indicate the type of any Exemption being claimed. If a CEQA document is in the process of being prepared, indicate the lead CEQA agency preparing the document and approximate expected completion date.

**NOTE:** Although CEQA documentation is not required to complete an application, pursuant to California Code of Regulations (CWC), Title 23, Section 3856(f), the certifying agency (Regional Board) must be provided with and have ample time to properly review a final copy of valid CEQA documentation before taking a certification action. U.S. Army Corps of Engineers guidelines allow the Regional Board 60 days to take action on a complete application. If the federal period for certification will expire before the Regional Board has opportunity to consider the necessary environmental documentation, certification may be denied “without prejudice” pursuant to CCR Title 23 Section 3836(c) until an environmental document can be completed and considered. Pursuant to Section 3837(b)(2), Certification is denied without prejudice whenever an application “suffers from some procedural inadequacy (e.g., failure to provide a complete fee or to meet CEQA requirements).”

#### **Section 4: Affected Waters**

- a) *Name and Type of Receiving Waters, and Estimated Quantity of Impact*—Provide the **name**(s) of any receiving water body(ies) that may receive a discharge, and indicate the **type** of waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, or wetland). **For each water body type**, indicate the total estimated **quantity** of waters of the United States that may be adversely impacted temporarily or permanently by a discharge or by dredging (i.e., excavation below the normal high water line). The estimated quantity must be reported in **acres** of fill, **cubic yards** of dredged material, and **linear feet** (for channels, shorelines, riparian corridors, and other linear habitat)
- b) *Name and Title of Person Delineating Extent of Waters*—Include wetland delineator certification information, if applicable.

#### **Section 5: Impact Avoidance, Minimization and Mitigation**

- a) *Proposed Measures to Avoid/Minimize Impacts*—Describe in detail, attach additional sheets as necessary. Describe any measures or Best Management Practices (BMPs) to avoid (or if impacts are unavoidable, to minimize) impacts to waters of the State such as:
- Stream diversion plans. Describe specific measures and structures that will be taken to effectively isolate work areas from stream flows.
  - Dewatering and plans for disposal of water from dewatering activities. **NOTE:** disposal to surface waters requires coverage under a National Pollutant Discharge Elimination System (NPDES) Permit.
  - Measures to avoid impacts to wetlands or riparian vegetation.

- Erosion control and sediment retention measures.
  - Map/description of material stockpiles, staging areas, equipment access routes, etc. (Access routes should be planned to minimize disturbance of vegetation.) Describe how equipment will cross streams, and any measures that will be taken to prevent discharge of sediment during stream crossings.
  - Waste handling plans (for example, disposal of construction materials, and water from steam cleaning and concrete washout activities).
  - Plans for responding to inclement weather. Describe how work areas and materials will be protected in the event of adverse weather, to prevent a discharge of earthen materials or other wastes from the site.
  - Revegetation plans, including revegetation success criteria. (The applicant may wish to contact an advisor such as the Natural Resource Conservation Service for recommendations.)
  - Spill contingency plans. Describe measures to prevent and respond to potential spills of stored materials (e.g., chemicals, construction materials, fuels), mechanical fluids from leaking equipment or equipment washing, etc.
- b) *Mitigation for Impacts*— Describe in detail, attach additional sheets or supporting documentation as necessary. Describe details such as location, size, and type of mitigation, pre- and post-project monitoring plan, vegetation/soil amendment plan, quality and availability of water supply, and/or assessment of technological and economic feasibility, etc.
- c) *Other projects planned or implemented by the applicant*—Provide a brief list/description, including estimated adverse impacts of any projects implemented by the applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or that may impact the same receiving water body(ies) as the proposed activity.

## **Section 6: Signature**

Sign and date the form.

**APPLICATION  
for  
Clean Water Act Section 401  
WATER QUALITY CERTIFICATION**

**California Regional Water Quality Control Board, Lahontan Region**

**South Lake Tahoe Office: 2501 Lake Tahoe Boulevard, South Lake Tahoe, CA 96150**  
**Victorville Office: 15428 Civic Dr., Suite 100, Victorville, CA 92392**

*Please type or print clearly in ink (see instructions for completion)*

Pursuant to California Water Code (CWC) Title 23, Section 3833(b)(2)(A), ***your application must Include a \$500.00 check as a “fee deposit,”*** made out to the “State Water Resources Control Board.”

**NOTE:** Additional fees may be required if a technically-conditioned Certification (i.e., a Certification including conditions in addition to standard conditions listed in CWC Title 23 Section 3860) is issued, or if the project involves greater than one acre of fill material, or greater than 10,000 cubic yards of dredged material. The fee schedule for Certification is contained in CWC Title 23 Section 2200(1)(C). You will be advised if fees are necessary in addition to the \$500 fee deposit. Contact the Regional Board if you need more information regarding fees.

**1. APPLICANT**

a) Property Owner:		
b) Owner's Representative:		
c) Street Address:		
d) City:	State:	Zip:
e) Phone: (    )	Fax: (    )	

**2. PROJECT DESCRIPTION**

a) Project Title and Purpose:
b) Project Location:
c) Proposed Project Schedule:

**3. PROJECT PERMITTING/LICENSING AND CEQA COMPLIANCE**

a) Federal Permits/Licenses Being Sought—indicate agency and permit type/number, and attach documentation including applications, any final permit, or other communications with federal agency (see instructions):
b) Has a Streambed or Lakebed Alteration Agreement with the Dept. of Fish & Game been obtained? (attach copy of application for Agreement, and any available final Agreement)
c) Are any other State or local licenses, permits, or agreements required for the proposed project? (Attach applicable documents--see instructions.)
d) Type of CEQA Compliance (see instructions--include, if complete, State Clearinghouse number and adoption date of EIR, Neg. Dec. or copy of Exemption Notice):

**4. AFFECTED WATERS**

a) Name and Type of Receiving Waters, and Estimated Quantity of Impact:
b) Name and Title of Person Delineating Extent of Waters (include wetlands delineator certification information, if applicable):

**5. IMPACT AVOIDANCE/MINIMIZATION AND MITIGATION**

a) Proposed Measures to Avoid/Minimize Impacts (see instructions—attach additional sheets as necessary):
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b) Mitigation for Impacts (see instructions—attach additional sheets as necessary):

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c) Other projects planned or implemented by the applicant:

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**6. SIGNATURE**

\_\_\_\_\_  
Signature of Property Owner (or Owner's Representative)

\_\_\_\_\_  
Date

If you have questions regarding the water quality certification process call the Regional Board at (916) 542-5400